IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.M.P.(M) No.877 of 2007

***Decided on:* December 24, 2007.**

Ramesh Sharma ***…Petitioner.***

VERSUS

State of Himachal Pradesh ***….Respondent.***

Coram

The Hon'ble Mr.Justice Kuldip Singh, Judge.

Whether approved for reporting?[1] No

For the Petitioner: **Mr Manoj Pathak, Advocate.**

For the respondent: **Mr.M.L.Chauhan, Addl.A.G.**

Kuldip Singh, Judge (Oral)

This is an application under Section 439 Cr.P.C. for releasing the petitioner on bail in F.I.R. No.225/2007 dated 20.10.2007 under Section 302 I.P.C., registered at Police Station, West, Shimla.

2. On 5.12.2007, notice was issued and learned Additional Advocate General has filed the status report. Heard and perused the record. The learned counsel for the petitioner has submitted that police has concocted a story and falsely implicated the petitioner in the case. There is no worth believing legal evidence on record to show that the petitioner is connected with the commission of offence. There is delay in lodging the F.I.R. The petitioner is not likely to tamper with the prosecution evidence. The petitioner earlier filed bail application which was rejected by learned Additional Sessions Judge,

---

Whether the reporters of the local papers may be allowed to see the judgment? Yes

Shimla on 28.11.2007. The learned counsel for the petitioner has prayed for granting bail to the petitioner. The learned Additional Advocate General has opposed the bail application. He has submitted that the petitioner is involved in a serious case under Section 302 I.P.C. During investigation of the case, the involvement of the petitioner has been established. He has further submitted that the investigation in the case is in progress to find out who others were with the petitioner for carrying the dead body of the deceased. In case the petitioner is released on bail, he will hamper the investigation and will also terrorize the prosecution witnesses.

3. The F.I.R. was registered on 20.10.2007 at the instance of Dolma, wife of the deceased. During investigation, it has come that one Anand Negi on 4.10.2007 got financed new Bolero vehicle from Mahindra & Mahindra Company, Kachi Ghati, Shimla. He deposited margin money Rs.1,58,000 and the company handed over new vehicle to Anand Negi, who did not know driving and, therefore, the company directed the accused to accompany Anand Negi up to Kinnaur and also obtain the signatures of guarantor Sher Singh. On this, accused drove the vehicle to Kinnaur along with Anand Negi. On 6.10.2007 they went to the house of Sher Singh along with file and completed the formalities. The accused, Anand Negi, Sher Singh deceased and his wife Dolma were being driven by accused to the house of Anand Negi but the vehicle met with an accident. On this, accused called mechanic from his company at Shimla and repaired the vehicle but Anand Negi refused to take back the vehicle. Anand Negi, Sher Singh deceased, who are relatives, had altercation with

the accused. The accused threatened both of them that he will see them on their visit to Shimla. The accused along with mechanic came to Rampur and parked the vehicle there and both of them came to Shimla. The accused, as per directions of the Company, called Anand Negi and Sher Singh on 11.10.2007 through phone. On this Sher Singh deceased came to Shimla on 12.10.2007 and met the accused at Kachi Ghati. Both of them took liquor in a hotel and accused took deceased Sher Singh to his residence, both went in bus up to I.T.B.P. Camp, Tara Devi. Thereafter both of them went on foot, near the residence of accused both had altercation but deceased Sher Singh after altercation went to the residence of accused. Sher Singh was last seen at the residence of the accused who had altercation, quarrel with the deceased. As per post-mortem report, the deceased had died as a result of ante mortem head injury, however, final opinion will be given after chemical examination of viscera. During investigation, the accused made disclosure statement and got recovered hook and strip of the belt. The accused also got recovered from his room belt without hook with which he gave beatings to deceased Sher Singh. It has come in investigation that on 13.10.2007 accused and deceased took liquor and had quarrel. The investigation in the case is in progress.

4. The deceased and the accused were last seen together on 12/13.10.2007. It has come in investigation that thereafter they had some quarrel. On the disclosure statement of accused, hook, strip of belt and belt have been recovered and from the cow shed of the accused bag and other articles of deceased Sher Singh were also

recovered and accused handed over mobile phone of deceased Sher Singh from his bed room. *Prima facie* it has come in investigation that deceased was with the accused before be was found missing. The investigation in the case is still in progress. Looking into the facts and circumstances of the case, the petitioner is not entitled to bail at this stage. The possibility cannot be ruled out in case the petitioner is released on bail, then he will influence the witnesses connected with the case. The allegations against the petitioner are serious. Accordingly, the application is dismissed.

5. The observations made in the order shall not be construed as expression of opinion on the merits of the case.

December 24, 2007 ***(Kuldip Singh), J.***

(soni)